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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,062	10/09/2001	Michael P. Schaub	D-2K036	7639
7590 10/16/2003				
David W. Collins Suite 125B 75 W. Calle de las Tiendas Green Valley, AZ 85614				
EXAMINER SPEARS, ERIC J				
ART UNIT 2878		PAPER NUMBER		

DATE MAILED: 10/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/974,062

Applicant(s)

SCHAUB ET AL.

Examiner

Eric J Spears

Art Unit

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is **non-final**.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 12-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-11, drawn to A Package and Window Combination, classified in class 250, subclass 239.
- II. Claims 12-21, drawn to A Method for Providing a Hermetic Seal, classified in class 359, subclass 819.
- III. Claims 22-23, drawn to A Method of Forming a Lens, classified in class 264, subclass 1.32.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the method of invention II could be used to make a device different from invention I.

Inventions I and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). Invention III merely claims the method a making a particular type of lens and has no steps which require the lens to be used with elements as claimed in invention I.

Moreover, invention I places no restrictions on the way the lens is made and may use a lens made in a totally different fashion from that claimed in invention III.

During a telephone conversation with David Collins on 2/21/2003 a provisional election was made with traverse to prosecute the invention of Combination of a Package and Window, claims 1-11. Affirmation of this election must be made by applicant in replying to this Office action. Claims 12-23 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant's election of Invention I (Claims 1-11) in amendment filed August 22, 2003 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7, 8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (5,811,799) in view of Primeaux (5,331,205) in view of Applicant's Admitted Prior Art.

Regarding Claim 1, Wu teaches a package containing a sensor die 50 combined with an optically transparent window with a lens 303 which is glued (i.e. hermetically sealed) to the top of the walls (See Fig. 6c and 10b). Although Wu teaches the lens being plastic, Wu does not teach a thermoset plastic. However, Primeaux teaches a sensor die protected by transparent thermosetting plastics (Col. 4, lines 56-68). Therefore, it would have been obvious to one of ordinary skill in the art to provide a lens/window in the device of Wu as a thermoset plastic, as such a thermoset plastic is well known in the art as shown by Primeaux, in order to provide a lens which can be made by molding into any shape one desires. Wu does not teach a field flattener lens. However, Applicant has stated that field flattener lenses are well known in the art in section 16 of the specification. Therefore, it would have been obvious to one of ordinary skill in the art to provide for a field flattener lens in the device of Wu, as the use of such lenses is well known in the art, in order to provide a correction to the light received by the sensor die.

Regarding Claim 2, the modified device of Wu does not teach the package being made from ceramics. However, Wu does not teach what the base 10 is made from other than that it is an insulator. Therefore, it would have been obvious to one of ordinary skill in the art to provide a ceramic base, as the use of ceramics in electronics as insulators is well known in the art as an obvious design choice, in order to provide cheap and readily accessible building materials.

Regarding Claim 3, the modified device of Wu teaches the thermoset plastic lens comprises a transparent epoxy (Primeaux Col. 4, lines 56-68).

Regarding Claim 4, the modified device of Wu teaches the epoxy is a self-releasing and fast cure resin (Primeaux Col. 1, lines 38-55).

Regarding Claim 5, the modified device of Wu teaches the lens and window are integral (Wu Col. 3, lines 5-7, see Fig. 10b).

Regarding Claim 7, it is well known in the art for lenses to contain diffractive surfaces.

Regarding Claim 8, Wu does not teach a lens with anti-aliasing surface features. However, Applicant has stated that lens with anti-aliasing surfaces features are well known in the art in section 18 of the specification. Therefore, it would have been obvious to one of ordinary skill in the art to provide for a lens with anti-aliasing surfaces features in the device of Wu, as the use of such lenses is well known in the art, in order to provide a correction to the light received by the sensor die.

Regarding Claim 10, the modified device of Wu shows the lens with alignment features such as the rectangular edge and the center of curvature of the lens.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (5,811,799) in view of Primeaux (5,331,205) in view of Todorof et al. (4,830,678).

Regarding Claim 10, the modified device of Wu does not teach an aberration correcting lens. However, Todorof teaches a aberration correcting lens. It would have been obvious to one of ordinary skill in the art to provide for an aberration correcting lens in the modified device of Wu, as such lenses are well known in the art as taught by Todorof, in order to reduce aberration in the detected light.

Response to Arguments

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Spears whose telephone number is (703) 306-0033. The examiner can normally be reached on Monday-Friday from 10:00am to 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on (703) 308-4852. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

EJS
02/21/03


Que T. Le
Primary Examiner